

Translation

PATENT COOPERATION TREATY

PCT/EP2003/012731



PCT

537,730

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 97 940/Ja:Bu	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/EP2003/012731	International filing date ( <i>day/month/year</i> ) 14 November 2003 (14.11.2003)	Priority date ( <i>day/month/year</i> ) 05 December 2002 (05.12.2002)
International Patent Classification (IPC) or national classification and IPC F03B 17/06		
Applicant BUTTLER, Ernst		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of <u>5</u> sheets, including this cover sheet.  <input checked="" type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).  These annexes consist of a total of <u>1</u> sheets.
3. This report contains indications relating to the following items:  I <input checked="" type="checkbox"/> Basis of the report II <input type="checkbox"/> Priority III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability IV <input type="checkbox"/> Lack of unity of invention V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement VI <input type="checkbox"/> Certain documents cited VII <input type="checkbox"/> Certain defects in the international application VIII <input type="checkbox"/> Certain observations on the international application

Date of submission of the demand 29 May 2004 (29.05.2004)	Date of completion of this report 16 September 2004 (16.09.2004)
Name and mailing address of the IPEA/EP  Facsimile No.	Authorized officer  Telephone No.

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

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## I. Basis of the report

### 1. With regard to the elements of the international application:\*

- ☐ the international application as originally filed
- ☒ the description:  
 pages 1-12, as originally filed  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☒ the claims:  
 pages 4-22, as originally filed  
 pages \_\_\_\_\_, as amended (together with any statement under Article 19  
 pages \_\_\_\_\_, filed with the demand  
 pages 1, filed with the letter of 02 July 2004 (02.07.2004)
- ☒ the drawings:  
 pages 1/6-6/6, as originally filed  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☐ the sequence listing part of the description:  
 pages \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_

### 2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

- These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is:
- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

### 3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

### 4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, Nos. \_\_\_\_\_
- ☐ the drawings, sheets/fig \_\_\_\_\_

### 5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\*

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

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## V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

### 1. Statement

Novelty (N)	Claims	1, 4-22	YES
	Claims		NO
Inventive step (IS)	Claims	1, 4-22	YES
	Claims		NO
Industrial applicability (IA)	Claims	1, 4-22	YES
	Claims		NO

### 2. Citations and explanations

1. The new independent claim 1 contains the features of the original claims 1-3.

The present application relates to a hydropower plant for generating electricity.

US-A-4 868 408 is regarded as the closest prior art. Said document describes a hydropower unit with a rotor, a generator and a float for a hydraulic turbine, the hydraulic turbine being held below the surface of the water in a floating state and also optionally being acted upon by a gaseous medium or flooded with water.

Said document does not disclose adjustable rotor blades and a rotor axis designed as a hollow axis. Therefore, the new claim 1 is novel.

None of the cited documents contains anything that suggests, for a hydropower plant, designing the rotor axis, which serves as a float for the hydraulic turbine, also as a hollow axis.

Therefore, claim 1 involves an inventive step.

The subject matter of claim 1 can be manufactured and used industrially for or together with hydropower plants.

Dependent claims 4-22 define preferred embodiments of the hydropower plant in claim 1 and therefore satisfy the criteria for novelty, inventive step and industrial applicability in the same way.

2. The embodiment of the rotor axis as a hollow axis is an essential feature of the new independent claim 1. Owing to the embodiment in the description on page 9, lines 24-26, according to which in several embodiments the rotor axis is not designed as a hollow axis, the application contains embodiments that do not come under the valid claim 1. This contradiction between claim 1 and the description causes doubt as to the subject matter for which protection is sought, and therefore this claim lacks clarity (PCT Article 6).
3. The applicant has not indicated any reasons why the claim should not be drafted in the two-part form. Furthermore, he has not indicated clearly in the description what features of the subject matter of claim 1 are already known from US-A-4 868 408; see PCT Guidelines, paragraph III-2.3a.
4. The description has not been brought in line with the new independent claim 1.
5. Contrary to the requirements of PCT Rule 5.1(a)(ii), the description neither cites US-A-4 868 408 nor indicates the relevant prior art disclosed therein.

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6. Because dependent claims 2 and 3 have been deleted, the back references in the remaining dependent claims 4-22 no longer correspond to their numbering.